United Nations E/2002/NGO/1

Economic and Social Council

Distr.: General
3 July 2002

Original: English

Substantive session of 2002
1-26 July 2002
Agenda item 14 (g)
Social and human rights questions: human rights

Statement submitted by Amnesty International, Association for the Prevention of Torture, Human Rights Watch, International Commission of Jurists, International Federation of ACAT, International Helsinki Federation for Human Rights, International League for Human Rights, International Rehabilitation Council for Torture Victims, International Service for Human Rights and World Organization against Torture, non-governmental organizations in special consultative status with the Economic and Social Council

The Secretary-General has received the following statement, which is being circulated in accordance with paragraphs 36 and 37 of Economic and Social Council resolution 1996/31 of 26 July 1996.

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The adoption of a text of an Optional Protocol by the 58th session of the Commission on Human Rights (The Commission) marked an historic step forward in the efforts to prevent torture and ill-treatment. The prohibition of torture was enshrined in the UN Declaration of Human Rights 54 years ago and this year marks the 15th anniversary of the entry into force of the UN Convention against Torture. Nonetheless, torture continues to be widespread and is practiced systematically in many States. Therefore, an effective means to assist States to implement their existing obligations to prevent torture is clearly long overdue.

Our organisations are convinced that the text adopted by the Commission represents the best achievable compromise resulting from 10 years of protracted negotiations. Whilst the adoption of international instruments by consensus is desirable, this is not always possible and forced consensus may not necessarily produce an effective instrument. It is clear that consensus cannot be achieved through further negotiations whether for one year or more. Furthermore, some States that argue for the necessity of consensus are resistant to accept an international visiting mechanism; a few are not States Parties to the UN Convention against Torture and consequently would not even be in a position to ratify the Optional Protocol. On the other hand, the Optional Protocol to the UN Convention against Torture provides an opportunity to those other States that are willing to take concrete steps to prevent torture as part of their existing obligations.

Prior to its adoption at the 58th session of the Commission, the resolution to adopt the Optional Protocol faced a "no action" motion. Our organisations have always been dismayed at the use of this procedural motion as it prevents an open debate on important human rights resolutions. This greatly impacts upon the credibility of the Commission, the primary UN body for debate on human rights and therefore should be denounced as a matter of principle by all States. Further, the unprecedented use of a no action motion for a thematic issue is regrettable and should not be repeated. If successful a no action motion would end all further discussion on the Optional Protocol and the initiative would be lost, a futile result after 10 years of negotiations. A vote for a no action motion would necessarily be considered a vote against the prevention of torture.

It is clear that no tangible gain can be achieved by further consultations; on the contrary this could affect the balance and compromise, which has been achieved in the text after a decade of debate. It is time for States to demonstrate their real commitment to prevent torture by approving the text adopted by the Commission and forwarding the text to the UN General Assembly for its adoption later this year.